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IN THE

# Supreme Court of Illinois

MARCH TERM A. D., 1958.

**JOSEPHINE DAVIDITIS, also known as JOSEPHINE DAVIS, STELLA C. DAVIS, and BETTY HORRIGAN,**

Appellants,

vs.

**THE NATIONAL BANK OF MATTOON, Mattoon, Illinois, a Banking Corporation,**

Appellee.

Appeal from the County Court of Coles County.

In Probate

In the Matter of the Estate of William Daviditis, alias William Davis, Deceased.

Honorable William J. Sunderman, Judge Presiding.

## ABSTRACT OF RECORD.

JOSEPHINE DAVIDITIS, also known as JOSEPHINE DAVIS, Pro Se and
STELLA C. DAVIS, Pro Se,
4916 N. Magnolia Avenue,
Chicago, Illinois.

BETTY HORRIGAN, Pro Se,
1303 Carmen Avenue,
Chicago, Illinois.

Midwest Law Printing Co., - 326 N. Michigan Ave., Chicago.
Telephone: Financial 6-3988

FILED
JAN 10 1958
Mrs. Earle Benjamin Searcy,

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IN THE

# SUPREME COURT OF ILLINOIS

MARCH TERM A. D., 1958.

| | |
|---|---|
| **JOSEPHINE DAVIDITIS**, also known as **JOSEPHINE DAVIS**, **STELLA C. DAVIS**, and **BETTY HORRIGAN**,<br><br>Appellants,<br><br>vs.<br><br>**THE NATIONAL BANK OF MATTOON**, Mattoon, Illinois, a Banking Corporation,<br><br>Appellee. | Appeal from the County Court of Coles County.<br><br>In Probate<br><br>In the Matter of the Estate of William Daviditis, alias William Davis, Deceased.<br><br>Honorable William J. Sunderman, Judge Presiding. |

## ABSTRACT OF RECORD.

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1a Placita.

1-5 On March 30, 1957, the petitioners, Josephine Daviditis, also known as Josephine Davis, Stella C. Davis, and Betty Horrigan, Pro Se filed their Petition For Reopening Probate Case No. 15428 For

Fraud Upon Petitioners and Affidavit, and Affidavit of Service by Mail thereon, containing allegations and prayer as follows:

Pursuant to Illinois Revised Statutes Chapter 110-Section 72 (1) and Chapter 77 Section 84.

*To the Honorable Judge of the Probate Court in and For the County of Coles*:

Now Comes, Petitioners, Stella C. Davis, Josephine Daviditis, and Betty Horrigan, Pro Se, heirs-at-law and widow of the William Daviditis, alias William Davis, interested parties in this proceedings and respectfully moves this Honorable Court to Vacate the Order entered by said Court on the 16th day of May, 1953, to permit the petitioners to reopen the Probate Proceedings in the above entitled cause. Said Order entered on the 16th day of May, 1953, allowed attorney and administrators fees, and disallowed the petitions and claims of the petitioners, and heirs-at-law and widow of the decedent, William Daviditis, alias William Davis, for Fraud perpetrated upon the petitioners and the said Order is erroneous and ought to be reversed, set aside and the whole Probate Proceedings reopened and Administration de bonis non may be issued as the case requires pursuant to Chapter No. 3, section (95-247).

The Fraud was perpetrated upon the petitioners and Court in the following manner:

1. At chapter 3, sec. 162-5 Smith Hurd. Stat at Common Law, the succession to personal property was governed by the Law of the domicile of the intestate at the time of his death without regard to the actual situs of the property at the time. The domicile of the intestate, William Daviditis, alias William Davis, was

the City of San Francisco, State of California, County of San Francisco. Whereas in Chapter 3, of Ill. Rev. Statutes, sec. 207(55) the situs of tangible personal estate is where it is located and the situs of intangible personal estate is where the instrument evidencing a debt obligation, stock or chose in action happens to be or where the Debtor resides, if there is no instrument evidencing the debt, obligation, or chose in action in this state. The outstanding debts, which to the information and belief of the petitioners was out in the State of California, the domicile of the deceased, William Daviditis, Alias William Davis, at the time of his death on March 25, 1951. The Probate court of Coles County took jurisdiction over the Probate Court of the County of San Francisco, California, and by the California Laws the widow was entitled to one half of her husband's property.

2. The inchoate right of Dower and the assignment of same pursuant to Chapter 18, sec. 171 (19) Time of filing instrument was within 10 months after death of intestate and letters of administration of the Estate. The surviving spouse did not file a verified petition regarding all the real estate in the State of Illinois conveyed by her late husband because of the conspiracy to defraud by Ray M. Foreman, Assistant U.S. Attorney, aided by Kenneth Clapper, the officials, E. C. Bauer, and Martin Behrend and others of the National Bank of Mattoon, Illinois, who violated this fiduciary relationship towards the widow by concealing this right from her and the other petitioners and heirs-at-law and who left them legally unprotected by this fraud and conspiracy to defraud.

3. The National Bank of Mattoon, its officials and employee, E. C. Bauer, and Elizabeth McVey, Ray M. Foreman and Kenneth Clapper caused the safety deposit box No. 932 opened, contents examined and listed by Ray M. Foreman, who also caused an inventory of same to be compiled on April 3, 1951, without the Due Process of Law, in violations of the Probate Act of the State of Illinois and in violations of the rules and conditions of the National Bank of Mattoon's Safety Deposit Box Department without an Administrator petitioned, nominated or appointed by the Probate of Coles County, Illinois. In this act, the above mentioned persons and institution were aided and abetted by Kenneth Clapper. This was a direct violation of their rights of equal protection of the laws
3 under the XIV amendment to the Constitution of the United States. No Petition for an Order to open the decedent's safety deposit box was filed in the Probate Court of Coles County, Illinois.

4. The National Bank of Mattoon, Mattoon, Illinois, and its employee, Elizabeth McVey, on April 3, 1951, caused a fraudulent acknowledgment on the fraudulent Petition of Letters of Administration dated April 3, 1951, and filed in said Probate Court on this date. This is a violation of Chapter 38, Ill. Rev. Stat. sections 321 and 322 of said code. In this she was aided by Ray M. Foreman, U.S. Assistant Attorney for said Federal District and Kenneth Clapper and other unnamed officials and employees of said bank.

5. That the signature of the petitioner, Stella C. Davis was obtained by fraud, false pretenses, duress and coercion in her hotel room on April 3, 1951 by Ray M. Foreman, aided by Kenneth Clapper and not notarized in her hotel room by Elizabeth McVey who was not physically present in her hotel room.

6. That testimony given by Ray M. Foreman, Kenneth Clapper, E. C. Bauer and others regarding the above petition of letters of administration was by Perjury and Subornation or Perjury. Ill. Rev. Stat. Ch. 38, sec. 227, sec. 225, A-Par 475, A-471-473.

7. That The National Bank of Mattoon, its official Martin E. Behrend, picked up the decedent's, William Daviditis, alias William Davis' money, bonds, and other valuables in the City Jail in Mattoon, Illinois on September 9, 1949, and through fraud concealed the true amount of assets picked up on said date, nor was there an inventory (official) in the City Jail in Mattoon, Illinois itemizing the valuables picked up in the cell in the city jail of Mattoon, Illinois, wherein Mr. Behrend, said Vice-President and Trust Officer at the time, obtained possession of his assets there, from the decedent, William Daviditis, alias William Davis.

8. By fraud and conspiracy to conceal and defraud, the National Bank of Mattoon, Mattoon, Illinois, together with Ralph Suddes, Kenneth Kidwell, and other unnamed persons caused a fraudulent Separate Maintenance Action No. 50-C-49 to be filed, ordered and decreed in the City Court of Mattoon, Illinois, County of Coles, making the said Bank Trustee and Josephine Daviditis, beneficiary in this suit.

4 The petitioner, Josephine Daviditis, was out of the jurisdiction of the City Court of Mattoon, and County of Coles, Illinois when this Fraud was perpetrated upon her.

11. On information and belief, the petitioners state that there were incompetency proceedings held in said County of Coles for the incompetency of the decedent,

William Daviditis, alias William Davis, and his widow Josephine Daviditis, also known as Josephine Davis, and the National Bank of Mattoon to be the conservator. No accounting of their acts or accounts have ever been given the petitioners and no proof of the Declaration of Trust published in the Mattoon Journal Gazette page 2, October 3, 1949, William Davis by National Bank of Mattoon, given to the heirs-at-law, Stella C. Davis and Betty Horrigan and what consideration—property, income and etc. were involved in this proceedings when according to the City Court of Mattoon, Illinois, County of Coles records there was supposed to be an Injunction against the decedent, William Daviditis, and The National Bank of Mattoon, defendants in case No. 50-C-49, Josephine Daviditis, alias Josephine Davis, plaintiff, in this fraudulent Separate Maintenance action in said court.

12. By fraud and conspiracy, The National Bank of Mattoon, hired the attorney of the petitioners unbeknown to them to represent them and to help them conceal the following:

a. Re-issued and manipulated United States Bonds, and missing government bonds. Interest on same.

b. Outstanding debts, trust, incomes, fraudulent conveyances of real property without signature of widow on same.

c. Forged checks cleared for payment by the National Bank of Mattoon, Mattoon, Illinois, Forged bank withdrawals.

d. Concealment by virtue of violation of Ill. Rev. Stat. Ch. 3-sec. 3-335 Article XV—prevention to heirs-at-law to get a citation to recover Property and Discover Information and Assets. The bank as administrator when guilty of Fraud would not

permit such a petition to be filed, nor did Ray M. Foreman, U.S. Assistant Attorney when heirs-at-law pleaded with him to protect them and do this for them. Illegal searches by Ray M. Foreman, and Kenneth Clapper prior appointment of Administrator with permission of bank.

13. The National Bank of Mattoon, its officials hired an attorney who resided one and sixty miles away from the Probate Court, and who was representing the petitioners and by thus hiring their counsel they left the petitioners legally unprotected through this fraud upon them.

14. The National Bank of Mattoon, never filed an inventory within the sixty day period of the probate proceedings in the Probate Court of Coles County, Illinois.

15. The petitioners state that they have acquired newly discovered evidence which has not been presented in the Probate Court of Coles County due to the Fraud of Ray M. Foreman, Kenneth Clapper and others who prevented them from presenting such evidence due to lack of legal protection and advice and to the National Bank of Mattoon, its officials and employees.

Wherefore:

By reason of such false and fraudulent pretenses, representations, fraud and conspiracy, the petitioners, and heirs-at-law and widow, suffered great losses in moneys, legal fees, court costs, U.S. bonds, property, realty, judgments, and other valuable assets in the Probate Court of Coles County, Illinois, Circuit Court of Coles, Illinois and other courts throughout the State of Illinois and otherwise, by appeals.

Wherefore:

The Petitioners pray that this Honorable Court leave to reopen Probate Case No. 13428 for Fraud, perpetrated upon the petitioners, by the National Bank of Mattoon, Ray M. Foreman, Kenneth Clapper, Elizabeth McVey, Ralph Suddes, W. K. Kidwell, Martin Behrend and E. C. Bauer.

/s/ Josephine Daviditis
Josephine Daviditis, also known as Josephine Davis

/s/ Stella C. Davis
Stella C. Davis, Pro Se, same as above
4916 N. Magnolia Ave.,
Chicago, Illinois

/s/ Betty Horrigan
Betty Horrigan, Pro Se
1303 Carmen Ave., Chicago, Ill.

State of Illinois
City of Chicago,
County of Cook—ss.

Josephine Daviditis, also known as Josephine Davis, Stella C. Davis, and Betty Horrigan, being duly sworn, says, that the facts and allegations therein contained are true, except so far as they are therein stated to be upon information, and that so far as they are therein stated to be upon information, they believe them to be true.

Dated this 29th day of March, 1957, A.D.

Subscribed and sworn to before me
this 29th day of March, 1957.

/s/ Maurice Kelman
Notary Public

my commission expires 1st Feb. 1959.
(Seal)

33-34 On April 20, 1957, respondent filed Motion to Strike with Affidavit of Service thereon.

8-12 On May 7, 1957, petitioners filed Affidavit in Support of Change of Venue with Exhibits and Affidavit of Service by Mail thereof.

13-31 On May 7, 1957, petitioners filed Motion in Answer To The Respondents' Motion To Strike Petition For Reopening Probate Case No. 15428 For Fraud Upon Petitioners and Affidavit with Exhibits and Affidavit of Service Thereon.

EXHIBIT "B"

Law Offices
FOREMAN & MEACHUM
20 Danville, Illinois
January 17, 1952

Mrs. Stella C. Davis
1217 Carmen Avenue,
Chicago, Illinois
Re: Estate of William Daviditis

Dear Madam:

Pursuant to the request made by you and your sister, Mrs. Marie Myers, on the date of our last conference at Mattoon, Illinois, we are enclosing a copy of the statement of M. Behrend, Vice President of The National Bank of Mattoon, Mattoon, Illinois, relative to certain transactions and proceedings at Mattoon and Charleston, Illinois, during the month of October, 1949. We understand that you have heretofore received a copy of this statement from Mr. Bauer of The National Bank of Mattoon, but are enclosing this copy for you and also a copy to each of your several sisters.

We are also enclosing, pursuant to your request, a photostatic copy of check issued by The Equitable Life Assurance Society of the United States under date of February 15, 1946, payable to William Daviditis, in the sum of $12,769.80; and also photostatic copies of check issued by Wayne O'Bryan under date of January 26, 1946, payable to William Daviditis, in the sum of $1,000.00 and check issued by Wayne O'Bryan under the date of February 15, 1946, payable to William Daviditis, in the sum of $3,000.00. The Equitable Life Assurance Society check together with the check for $3,000.00 executed by Wayne O'Bryan of Champaign County, Illinois, constituted the balance of $15,800.00 payable to William Daviditis, as the balance of the initial amount of $16,-800.00 on the sale of the farm in Champaign County. The difference between the balance of $15,769.80 and $15,800.00 comprised expenses for Federal Transfer Taxes and abstract costs in sum of $30.20. The photostatic copy of The Equitable Life Assurance Society check was forwarded to us with no billing for the cost thereof as of the present date. This conforms with the complete detailed statement of this transaction submitted to us under date of July 25, 1951, by Mr. David F. Hubbard of The Equitable Life Assurance Society, which explanation has heretofore been given you on several occasions. We trust that this will thoroughly satisfy you as to the completion of that transaction.

21 Mrs. Stella C. Davis —2— January 17, 1952

We have received a letter from Elliot W. Seymour, attorney at law, San Francisco, California, advising that there is presently a balance in the account of William Daviditis in the Anglo-California National Bank of San Francisco in the sum of $300.00. We have written this bank for confirmation of this amount and as soon as such confirmation is received the necessary documents will be forwarded to the bank for transfer of that account to the account of the administrator.

Mr. Seymour has also sent us his statement for attorney fees for work and services rendered to you and the several heirs of the decedent in the sum of $250.00. These services probably comprise a direct charge against you and the other heirs who employed him. However, in view of the fact that these services were rendered to all of the heirs it would probably be satisfactory to have an allowance made in the estate. We will not be able to do this unless we receive the consent of the several heirs to this procedure. May we suggest that in your reply to this letter you advise if it is satisfactory for us to allow a claim of Mr. Seymour for services rendered to the heirs in the probate proceedings. If so, we shall have Mr. Seymour file his claim and then permit the court to pass upon the allowance as to the amount thereof. It is possible that the court might not see fit to allow the full amount of this claim.

Very truly yours,
Foreman & Meachum
By: Ray M. Foreman

RMF:v
encls. cc: Matilda Marion
Marie Myers
Betty Horrigan

## EXHIBIT "C"

22 The National Bank of Mattoon
Mattoon, Illinois

*The National Bank of Mattoon, With Reference To Certain Transactions of William Daviditis During the Year 1949*

The writer is 52 years of age and has been employed by The National Bank of Mattoon for the past 35 years continuously.

During that time I became very acquainted with William W. Daviditis, who was a long time customer of ours. I waited on him many times at the window, and he frequently in later years sought my advice and counsel on financial matters.

As near as I can recall, it was during the month of September in 1949, Mr. Daviditis came in and consulted the writer. At that time he was having serious family troubles at home. He was very angry at his daughters, and said that he was going to cash all of the bonds he had so as to keep them from getting any of his money. The writer told him that he would gain nothing by cashing the bonds, because the children, his daughters, could attach cash as well as bonds. It happened that our attorney, Mr. George Gilkerson, was in the bank and I recall calling him over to my desk and we counselled with Mr. Daviditis against cashing out his bonds. He was so angry though, that we accomplished nothing, and he took the money for the bonds, and as near as I can recall it was approximately $15,000, and left the bank.

The next thing that I know, a few hours later, I was informed that the daughters had sworn out a warrant for his arrest as he had made a display of a large check in a local tavern. The police picked him up and locked him up in jail. I believe that Ralph Suddes was the attorney who represented the girls and had him arrested.

The writer went over to the jail about 5 o'clock in the evening and talked to Mr. Daviditis, who was locked in the cell. He was a raving maniac. He would jump up and down and cursed his daughters and wife to everything under the sun, and swore up and down they would never get a dime of his money. After talking with him for about an hour, I managed to get him cooled down and he agreed to give me all of his money, which he did. I then made arrangements to have the police magistrate come down and let him plead guilty to a disorderly charge, and got him released from jail. I took him personally over to the Plaza Hotel, here in Mattoon, and made arrangements with the management to give him a room and provide a place for him to stay so that he could get his affairs at home straightened out and could return to his home.

23 The National Bank of Mattoon
Mattoon, Illinois

*The National Bank of Mattoon, with Reference to Certain Transactions of William Daviditis During the Year of 1949.*

Mr. Daviditis then had W. K. Kidwell, a local attorney, represent him and after a great deal of haggling, the family affair was straightened out and Mr. Daviditis agreed to set up a trust fund for the benefit of his wife and she was to go and live with one of the daughters. The trust fund provided that the trustee pay Mrs. Daviditis a fixed sum each month. The bank was appointed as the Trustee under the Trust Agreement.

During this time, Josephine Daviditis the wife of William, had brought a suit in the city court and under date of October 12, 1949, Judge Jacob Berkowitz, judge of the city court of the city of Mattoon, entered an order striking complaint for separate maintenance and modifying temporary injunction. This order directed The National Bank of Mattoon to deliver to William Daviditis, the sum of $15,000 and we have in our possession, a receipt dated October 13, 1949, signed by William Daviditis, acknowledging receipt from the National Bank of Mattoon the sum of $1500 in the following form, $950 was in Traveler's Checks issued to Mr. Daviditis that he had on his person at the time of his arrest, and which he gave to us to hold for him and $550 in currency. We also gave him postal savings certificates No. 09122, in the amount of $100 and No. H5446 in the amount of $200. This was delivered to him at a later date on November 16, 1949. The records of the National Bank of Mattoon showing the checking account maintained by Mr. Daviditis in this bank on October 13, 1949 deposited to his checking account the sum of $15,110.00. This is the balance of the Money that he left with us and represented by Cashier's Check on the Central National Bank of

Mattoon, which Mr. Daviditis purchased on the day that he cashed the bond at our bank he went down to the other bank and purchased this check. On November 18, 1949 the records further show that Mr. Daviditis wrote a check for $8,000 and this was the check that was deposited under the Trust Agreement mentioned before in this letter. The records further show that of November 19 there was a $5,000 check and that one was deposited in the Mattoon Federal Savings and Loan Association.

I could get ample proof of his actions and what he said regarding his daughters over at the police station because there were about five or six policemen there at the time, as well as Mr. James Warren, the city clerk. They were afraid I was going to get hurt to go in that cell with that wild man, for he certainly was wild, with anger at his daughters. If they think

24 The National Bank of Mattoon
Mattoon, Illinois

*The National Bank of Mattoon, With Reference to Certain Transactions of William Daviditis During The Year 1949.*

I have exaggerated what he said about them, all they need to do is have me get those policemen and Mr. Warren and I know that they would substantiate every comment I have made. Also the records of the hotel, which was operated by Dwight Haskins, who is now the township supervisor, could be furnished them to show that we took care of their father when it was not possible for him to go to his own home. With kindest personal regards, and I appreciate your position in this case, especially after talking with Mr. Bauer, I am,

Very truly yours,
M. F. Behrend
Vice President

36-39 On September 4, 1957, petitioners filed a Motion and Affidavit of Service by Mail thereon.

40-43 On October 14, 1957 a Petition with Affidavit of Service by Mail thereon, consisting of the following,

PETITION.

40 Now comes the petitioners, Stella C. Davis, and Betty Horrigan, Pro Se, heirs-at-law in the above entitled probate proceedings, and moves this Honorable Court for a Change of Venue to the Probate Court in the City of Chicago, State of Illinois, County of Cook, the residence of the petitioners and to the Probate Court in San Francisco, California, the state having original jurisdiction of the subject matter and the State of Illinois having ancilliary jurisdiction of the subject matter.

In Chapter 3 sec. 162-5 Smith Hurd Stat. at Common Law the succession to personal property was governed by Law of the domicile of Intestate at the time of his death as well as the debts due from the decedent's estate, and since the domicile of the decedent, William Daviditis, alias William Davis, was the city of San Francisco, California, and the outstanding debts were also in the State of California, Domicile determines jurisdiction of the courts, White *v.* Tennant, Supreme Court of Appeal of W. Va. 1888, 31 W. Va. 790, 8 S.E. 598, 13 Am. St. Rep. 896, and the case of Headen *v.* Cohn, 292, Ill. 210, 126 N.E. 350.

The petitioners, Stella C. Davis, and Betty Horrigan, pro se, also moves this Honorable Court for a statement from the Federal Bureau of Investigation, that

they have been complaining about the National Bank of Mattoon, Mattoon, Illinois, a banking corporation, its officials and employee and other name persons in their Petition for Reopening Probate Case No. 15428 for Fraud upon Petitioners and Affidavit since the year of 1950, prior to the death of their father, the decedent, William Davis, also known as William Daviditis. That in the year of 1951, and 1952, prior the Hearings on the above entitled proceedings held in April 25, 1952, May 9, 1952, and May 10, 1952, they had complained about the judge of the Probate Court
41 of Coles County, Illinois to the Federal Bureau of Investigation and to the President of the Illinois Bar Association and the Bar Association.

The petitioners, Stella C. Davis and Betty Horrigan, pro se, hereby state they discovered assets which have been withheld from the heirs-at-law.

Dated this 14th day of October, 1957, A.D.

By: Stella C. Davis
Stella C. Davis, Pro Se
4916 N. Magnolia Avenue,
Chicago, Illinois

By: Betty Horrigan
Betty Horrigan, Pro Se
1303 Carmen Avenue,
Chicago, Illinois

44 Coles County Probate Court Record Number 23 Page 581, October 14, 1957.

In the Matter of the Estate of William Daviditis, Alias William Davis, Deceased.

Stella C. Davis and Betty Horrigan, Pro Se, Petitioners,

PETITION AND HEARINGS.

On this day come Stella C. Davis and Betty Horrigan, Pro Se, and file herein their petition for change of venue and for a statement from the Federal Bureau of Investigation, in the Estate of William Daviditis, alias William Davis, Deceased.

The causes are heard by the Court, the motion for change of venue is denied, the motion for subpoena duces tecum is denied, the petition to reopen estate is denied, and the motion to strike petition to reopen estate is granted, and the said petition is hereby stricken by the Court.

45-48 Notice of Appeal filed on November 4, 1957 together with Affidavit of Service by Mail thereon.

49-54 On November 13, 1957, Praecipe of Record of Appeal and Affidavit of Service by Mail thereon filed.

55-56 On April 3, 1951 Petition for Letters of Administration filed.

57 Coles County Probate Record Number 50, Page 54—April 3, 1951. 2nd day of the April Term, A.D., 1951.

In The Matter of the Estate of
William Daviditis, Alias William Davis, Deceased,
Stella C. Davis, Petitioner,

PETITION FOR APPOINTMENT OF ADMINISTRATOR.

On this day comes Stella C. Davis and files herein her petition praying that The National Bank of Mattoon be appointed Administrator of the Estate of William Daviditis, alias William Davis, Deceased. The Court, upon hearing the petition and the argument of counsel, and being fully advised in the premises, finds that the prayer of the petition should be granted, and The National Bank of Mattoon is

appointed Administrator of the said Estate of William Daviditis, alias William Davis, Deceased, and the Clerk of this Court is directed to issue letters of administration to it in the premises. Claim date is fixed for June 4, 1951.

58-59 Letters of Administration filed April 3, 1951.

60-62 Appraisement Bill filed August 25, 1951.

64-66 On December 31, 1951, The Inventory was filed in the clerk's office.

68-70 Petition To Sell Personal Property filed on January 8, 1952.

71-73 Order to sell Personal Property filed on January 8, 1952 as follows:

71 State of Illinois
County of Coles—ss: In The County Court

In The Estate of
William Daviditis, alias
William Davis, Deceased. In Probate

ORDER TO SELL PERSONAL PROPERTY OF THE ESTATE OF WILLIAM DAVIDITIS, DECEASED.

Now Comes The National Bank of Mattoon, a national banking association, Administrator of the Estate of William Daviditis, deceased, by Foreman & Meachum, its attorneys, and presents its verified petition for leave to sell certain personal property of the estate of the decedent, and the Court, having considered said verified petition and being duly advised in the premises, finds:

1. That among the assets of the estate of the decedent are certain items of personal property properly classed as securities, hereinafter more specifically described; that it is not feasible, to distribute said

securities in kind to the heirs-at-law and next-of-kin of the decedent; that the value of said securities will not be diminished by sale thereof and the cash proceeds thereof distributed to the heirs-at-law of the decedent; that it is to the best interest of the estate herein for the Administrator to sell said items of personal property and utilize the proceeds thereof, if necessary, for payment of part of the debts of the estate of the decedent and the administrative costs and expenses of said estate, and to distribute the balance to the heirs-at-law and next-of-kin.

2. That it is not necessary or essential that any notice of a hearing upon said petition be given to interested parties herein inasmuch as all of said securities can be liquidated by sale thereof either at market price or at cost price, plus interest.

3. That the Administrator should be authorized to sell said personal property at private sale without notice.

72 Now Therefore, The National Bank of Mattoon, a national banking association, Administrator of the Estate of William Daviditis, deceased, be and it is hereby authorized to sell the following described items of personal property commonly called securities, to-wit:

*U.S. Postal Savings Certificates*:

| Number | Date Issued | Face Amount |
|---|---|---|
| H6044 | October 3, 1950 | $200.00 |
| H5688 | February 3, 1950 | 200.00 |
| G9975 | October 3, 1950 | 100.00 |
| 18703 | September 1, 1950 | 500.00 |
| 18702 | September 1, 1950 | 500.00 |
| 18704 | September 1, 1950 | 500.00 |
| 18163 | February 3, 1950 | 500.00 |

*U.S. Savings Bonds, Series E*:

| Number | Date Issued | Face Amount |
|---|---|---|
| M20770190E | November, 1949 | $1000.00 |
| M20770189E | November, 1949 | 1000.00 |
| C2119878E | November, 1941 | 100.00 |
| C4795276E | January, 1942 | 100.00 |
| C6179518E | February, 1942 | 100.00 |
| C97344808E | April, 1942 | 100.00 |
| L7997433E | May, 1942 | 50.00 |
| C12481242E | May, 1942 | 100.00 |
| L10711155E | July, 1942 | 50.00 |
| C10547470E | September, 1942 | 100.00 |

*U.S. Postal Money Order*:

| Number | Amount |
|---|---|
| 374980 | 32.50 |
| American Express Travelers Check | 20.00 |
| Mattoon Federal Savings and Loan Association-Savings A/C No. 488-A | 5000.00 (Princ. Amt.) |
| Mattoon Federal Savings and Loan Association-Savings A/C No. 489-A | 5000.00 (Princ. Amt.) |
| 10 Shares Common Stock Certificate No. CX21194, Mo., Kansas, Texas Railroad Co. | 111.25 |
| 1 Share Common Stock, Certificate No. 319, Tuscola Co-operative Grain Co. | 10.00 |

It Is Further Ordered that said Administrator be and it is hereby authorized to sell the aforesaid items of personal property at private sale, without notice, at the best price obtainable therefore.

Entered this *8th* day of January, A.D. 1952.

William J. Sunderman,
Judge of the County Court of Coles County, Illinois—in Probate.

74-75 Petition To Withdraw Petition for Appointment of Administrator filed on February 16, 1952.

76-77 Petition For Revocation of Letters and Issuance of New Letters filed in office of clerk on February 26, 1952.

79-81 Motion for Continuance filed by respondent on March 28, 1952, and Motion allowed.

82-89 Report on Final Settlement and Receipts filed by the respondent on March 28, 1952.

90 On April 4, 1952, respondent filed Objection to Claim of Josephine Daviditis.

92-94 On August 27, 1951, Claim was filed by J. Frank Shea, M.D.

95-99 On March 27, 1952, Claim of Elliot W. Seymour filed in the clerk's office.

100-102 On April 25, 1952 Objections To Account of The National Bank of Mattoon, Illinois, as Administrator, and To The Petition of Said Administrator For Allowance of Attorney and Administrator Fees, was filed by Betty Horrigan.

103-105 Objections To The Account of The National Bank of Mattoon, Mattoon, Illinois as Administrator And To The Petition of said Administration For Allowance of Attorney's Fees, filed by Stella C. Davis, on April 25, 1952.

106-112 Opinion of Court filed on May 16, 1952.

113-117 Order of Court filed on May 26, 1952.

118 Application For Extension of Time In Which To File Appeal filed on June 4, 1952 by petitioners.

119-120 On June 4, 1952 Order Granting Twenty Day Extension In Which To Appeal was filed in clerk's office.

121-124 Appeal Bond filed and approved by the court on June 24, 1952.

125-127 Motion To Dismiss Appeal filed on December 15, 1952 by respondent.

128-129 On August 20, 1953, Affidavit of Betty Horrigan was filed.

130 On September 1, 1953, Betty Horrigan filed an Affidavit.

131 On September 2, 1953, Affidavit of Betty Horrigan was filed.

131-133 On September 2, 1953, Stella C. Davis filed an Affidavit.

135 On September 2, 1953 Stella C. Davis filed Objections To Petition For Authority To Deposit Unclaimed Money with County Treasurer.

136-137 Report on Final Settlement, as Amended was filed on July 24, 1953 and approved by Court on July 31, 1953, together with Receipts.

141 On July 23, 1953, a Petition was filed by Stella C. Davis, Pro Se.

143-146 On November 29, 1957 an Appeal Bond was filed by petitioners.

147 Certification of Clerk to Record.

Certificate.

State of Illinois
County of Coles—ss:

I, Elmer F. Elson, Clerk of the County Court in and for said County, in the State aforesaid, do hereby certify that I am the keeper of the records, files and seal of said Court, and that said Court is a court of record, having a duly elected, qualified and

acting Clerk and a seal, said court having original jurisdiction in all matters of Probate, and I do also further certify that the foregoing is a true and complete copy of:

Petition for Reopening Probate Case No. 15428 for Fraud upon Petitioners and Affidavit.

Affidavit in Support of Change of Venue and Exhibits.

Motion in Answer to the Respondents Motion to Strike Petition for Reopening Probate Case No. 15428 for Fraud upon Petitioners and Affidavit and Exhibits.

Motion to Strike.

Motion and Affidavit of Service by Mail.

Petition and Affidavit of Service by Mail.

Order of Court entered on October 14th, 1957.

Notice of Appeal, and Affidavit of Service by Mail.

Praecipe of Record on Appeal, and Affidavit of Service by mail.

Petition for Letters of Administration.

Hearing on Petition for Appointment of Administrator, and appointment of Administrator.

Letters of Administration.

Appraisement Bill.

Inventory.

Petition to Sell Personal Estate.

Order to Sell Personal Property.

Petition to Withdraw Petition for Appointment of Administrator.

Petition for Revocation of Letters and Issuance of New Letters.

Motion for Continuance.

Report on Final Settlement and Receipts.

Objection to Claim of Josephine Daviditis.

Claims filed by J. Frank Shea, M.D. and Claim of Elliot W. Seymour.

Objections to Account of The National Bank of Mattoon, Illinois as Administrator, and to the Petition of Said administrator for Allowance of Attorney and Administrator Fees.

Opinion of Court filed on May 16, 1952.

Order Granting Twenty Day Extension in Which to Appeal.

Appeal Bond.

Motion to Dismiss Appeal.

Affidavits of Betty Horrigan and Stella C. Davis.

Objections to Petition for Authority to Deposit Unclaimed Money with County Treasurer.

Report on Final Settlement, as Amended, and Approval of Report on July 31st, 1953, and Receipts.

Petition of Stella C. Davis, Pro Se, and

Appeal Bond,

All filed herein in the Matter of the Estate of William Daviditis, alias William Davis, Deceased: as the same appears from the records and files now in this office remaining.

In Testimony Whereof, I have hereunto set my hand and affixed the Official Seal of said Court, at my office in Charleston, Illinois, this 6th day of December, A.D., 1957.

Elmer F. Elston,
Clerk of the County Court.

(Seal)

Respectfully submitted,

JOSEPHINE DAVIDITIS, also known as
JOSEPHINE DAVIS; Pro Se, and
STELLA C. DAVIS, Pro Se,
4916 N. Magnolia Avenue,
Chicago, Illinois,

BETTY HORRIGAN, Pro Se,
1303 Carmen Avenue,
Chicago, Illinois.

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IN THE

# Supreme Court of the United States

OCTOBER TERM, A.D., 1958.

**No. 969**

**JOSEPHINE DAVIDITIS, also known as JOSEPHINE DAVIS, STELLA C. DAVIS, and BETTY HORRIGAN,**

Petitioners,

vs.

**THE NATIONAL BANK OF MATTOON, Mattoon, Illinois, a Banking Corporation,**

Respondent.

**Petition For Writ of Certiorari To The Supreme Court of Illinois.**

JOSEPHINE DAVIDITIS, also known as JOSEPHINE DAVIS, Pro Se and STELLA C. DAVIS, Pro Se.
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IN THE

# Supreme Court of the United States

OCTOBER TERM, A.D., 1958.

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## No.

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**JOSEPHINE DAVIDITIS**, also known as **JOSEPHINE DAVIS**, **STELLA C. DAVIS**, and **BETTY HORRIGAN**,

Petitioners,

vs.

**THE NATIONAL BANK OF MATTOON**, Mattoon, Illinois, a Banking Corporation,

Respondent.

---

**Petition For Writ of Certiorari To The Supreme Court of Illinois.**

---

*To The Honorable, Earl Warren, Chief Justice and Associate Justices of the Supreme Court of the United States.*

Josephine Daviditis, also known as Josephine Davis, Stella C. Davis, and Betty Horrigan, Pro Se, petitioners, pray that a Writ of Certiorari issue to review and reverse the Orders of the Supreme Court of Illinois, entered on January 13, 1958, dismissing their appeal, on Motion of the appellee, in the above entitled cause of action.

The Trial Court, being the County Court of Coles, in Probate, of Illinois, denied the Petition for Reopening Probate Case No. 15428 for Fraud upon Petitioners and Affidavit thereon, their Motion for Change of Venue, a Statement from the Federal Bureau of Investigation, and their Motion for Subpoena duces tecum, on October 14, 1957 and allowed the Motion of respondent to strike their Petition to reopen estate, and asserts the following.

## OPINION.

The Supreme Court of Illinois did not issue a written opinion.

The County Court of Coles, in Probate, of Illinois, being the Trial Court did not issue a written opinion on their Petition to Reopen Probate Case No. 15428 for Fraud Upon Petitioners and Affidavit, thereon, but said court issued a written opinion on May 16, 1952, and it is set forth as Petitioner's Appendix.

## JURISDICTION.

The Supreme Court of Illinois entered its final decisions on January 13, 1958, dismissing appellant's Appeal on their Petition for Reopening Probate Case No. 15428 for Fraud Upon Petitioners and Affidavit pursuant to Ill. Rev. Stat. Chapter 110, sec. 72 (1) & (3) and Chapter 77 sec. 84, on Motion by appellee to dismiss same, and on said date the Court did not consider Motion by appellants for leave to file additional record instanter. Again on January 21, 1958, the Court denied Motion by appellants

that this Cause be Argued Orally on January 24, 1958 and that the Order dismissing Appeal be Vacated Pending Oral Argument was denied, whereas on January 24, 1958, Motion by appellants that this cause be transferred to the Appellate Court of Illinois, Third District, was denied.

Petitioners believe this honorable court to have the power to grant certiorari by reason of Part V, Rule 19(1) (b) of the Revised Rules of the Supreme Court of the United States, Title 28 U.S.C. sec. 1257 (2) (3) see *Kern-Limerich* v. *Scurloch*, Ark. 1954, 74 S. Ct. 403, U.S. Constitution, Article IV, sec. 2—Amendments IV, V, and XIV, sec. 1; also Rule 56 U.S.C. 28 of 1895; Title 5 U.S.C. sec. 139 E. F. and 12 U.S.C. sec. 240 (K); *Adam* v. *Saenger*, 303 U.S. 59, 164 (1938).

An amended application for an extension of time within which to file a petition for writ of certiorari in petitioner's cause of action was granted by an order of Mr. Justice Clark of the United States Supreme Court on April 3, 1958, extending their time to file from April 14, 1948, up to and including May 3, 1958, A. D.

The contention of petitioners is that the rejection of their petition for Relief pursuant to Ill. Rev. Stat. Chapter 110 sec. 72 (1) (3) and Chapter 77 sec. 84 by the County Court of Coles, State of Illinois, In Probate, and dismissal of their appeal by the Illinois Supreme Court constituted a denial of "due process of law" as is provided by the U.S. Constitution XIV Amendment sec. 1 and under Ill. Rev. Stat. Chapter 110 sec. 72 (6) wherein any Order denying Relief prayed in their Petition is appealable whereas Fraud was perpetrated upon the petitioners as the result of their complaints to the Federal

Bureau of Investigation in 1950, prior probate proceedings, and thereafter, about the respondent and other named persons in their pleadings. Relief was impossible for petitioners due to the fact that they had to legally represent themselves because of FRAUD, DURESS, INTIMIDATION, THREATS, PERJURY AND SUBORNATION OF PERJURY, FALSE REPRESENTATIONS, AND FRAUDULENT CONCEALMENT perpetrated by respondent, its attorneys, and other named persons in their pleadings, upon petitioners.

There are Federal Questions of Substance not theretofore determined by The Supreme Court of the United States and also questions to be certified by said court. Where denial of Constitutional Right to assistance of Counsel is asserted, its peculiar sacredness demands that this court scrupulously review the record. *Avery* v. *State of Alabama*, Ala. 1940, 60 S. Ct. 308 U.S. 444, 84 L. ed. 377.

5. There were violations of the rights of petitioners under Article IV, sections 1 and 2 of the U.S. Constitution regarding the Probate Court of Coles County, Illinois, the respondent's entrance into this action and the acts of other named persons in their pleadings.

6. The illegal use of the U.S. Mails and Federal Communications to perpetrate Fraud upon the petitioners.

7. Violations of the National Banking Act, as well as using a federal right under U.S.C. 12 sec. 248(K) to enter as administrators in contravention with the rights of the petitioners in being clothed with state rights under the Illinois Probate Act wherein the respondent, its attorneys and others named in their pleadings perpetrated a fraud upon petitioners.

## STATEMENT OF THE CASE.

The action was brought pursuant to Ill. Rev. Statutes Chapter 110 section (1) (3) and Chapter 77 section 84 in a Petition for Reopening Probate Case No. 15428 for Fraud Upon Petitioners and Affidavit thereon and to Vacate the Order entered on May 26, 1952 by the County Court of Coles, in Probate, Illinois and Administration de bonis non be issued pursuant to Ill. Rev. Stat. Chapter 3, sec. 95, 247 (R. 108 & Tr. 118-121).

Petitioners allege they were under Duress and Legal Disability and were trying to protect their rights and that the ground for Relief is and has been Fraudulently concealed by the respondent (R. 13-18 & Tr. 10-11), its attorneys and other named persons in their pleadings complained about to the Federal Bureau of Investigation in the year of 1950 and thereafter, and which as the result of their complaints the U.S. Attorney's office in Danville, Illinois, through Ray M. Foreman officially entered the case on December 9, 1950, who accepted a fee as a federal attorney on government property, then became attorney for petitioners and who eventually entered into an interstate conspiracy together with a San Francisco, California Attorney, who was representing the petitioners before and after the death of their father and husband who was seriously ill in said city, and they made it possible for the respondent, an antagonist to the petitioners and heirs-at-law, become administrator, by Fraud, with Ray M. Foreman and associates, its attorney, who was representing the petitioners at the same time as evidenced by their pleadings, Exhibits and Affidavits on file in said cause of action. (R. Tr. 19-21, 100-104, R. 9-11, 11-14,

15-16), and who unbeknown to them became the attorneys for the respondent to their financial, and legal detriment.

On April 2, 1951, Ray M. Foreman, together with Kenneth Clapper, came up to their hotel room in Mattoon, Illinois, had a legal conference with them, and before they left they embezzled their legal file and investigator Ball's report together with receipts and other items and refused to return same until they collected a fee for same, although by testifying falsely against them in courts, suborning others to perjure themselves on their and the respondent's behalf and leaving them legally open to all legal pitfalls as evidenced by their pleadings filed in the Probate Court of Coles County, Illinois, Pro Se throughout the probate period and thereafter in many courts in the United States.

That the proceedings leading up to and during April 3, 1951, are a Fraud upon petitioners and are falsification of court records, (chapter 38, sec. 176, 401) because to the petitioner's belief and knowledge there was no hearing on April 3, 1951, on the fraudulent petition of letters of administration with a fraudulent acknowledgment affixed to same and the National Bank of Mattoon written in by Ray M. Foreman, whose name appears as attorney (Tr. 57-58, 60-61, 62). That the petitioner, Stella C. Davis, was not in court that day, nor in Charleston, Illinois, nor were the petitioners who were with her in Mattoon, Illinois, nor did she file same, nor was there "Notice of Hearing" or "Waiver" of same by petitioners filed therein. That this act was a fraud perpetrated upon them by the respondent, its attorneys and other named persons, a violation of Their Rights under the XIV and V Amendment to the Constitution and violation of the Illinois Civil Practice Act and Probate Act. *Cummins* v. *U.S.*, Ark. 1916, 232, F. 844, 147 C.C. A. 38. And this was a continuous

fraud upon petitioners up to and including April 3, 1951 and from thereon.

That the State of Illinois, or the County Court of Coles did not have jurisdiction of the subject matter as the intestate was a resident of the State of California at the time of his death, and at Chapter 3, sec. 162-5 Smith Hurd Stat. at Common Law was governed by the law of the domicile of intestate at time of death, as well as debts due from decedent's estate.

Under Ill. Rev. Stat. Chapter 110 sec. 72(3) if ground for Relief is Fraudulently Concealed shall be excluded in computing the period of two years as well as Fraud, Duress and Legal Disability and the petitioners allege they have acquired newly discovered evidence and have information concerning concealed assets which the court refused them permission to present and to administer, and under section of 72(6) any denial of this right is appealable. *Trupp* v. *First Englewood State Bank of Chicago*, 1940, 307 Ill. App. 258, 30 N.E. 198; *Headen* v. *Cohn*, 292 Ill. 210, 126 N.E. 350.

## QUESTIONS PRESENTED.

This case involves an action to Reopen Probate Case No. 15428 for Fraud Upon Petitioners in the County Court of Coles, State of Illinois, in Probate, pursuant to Ill. Rev. Stat. Chapter 110, sec. 72 (1) (3) and Chapter 77 sec. 84.

The questions presented by the petition are set heretofore: Whether a Trial Court commits reversible error in taking jurisdiction of the subject matter, in Probate, in dismissing their Petition for Reopening Probate Case No. 15428 for Fraud Upon Petitioners and Affidavit and denying all other Relief pleaded in their cause of action, and the Supreme Court of Illinois by affirming the Orders of the Trial Court in dismissal of their appeal when:

1. The "Charges of Fraud" as such set forth is a denial of "due process of law" and a violation of their Rights under the V and XIV Amendments to the U. S. Constitution, U.S.C. 28 sec. 1343, and rights under the State of Illinois Constitution.

2. It is the right of every private citizen of the United States to inform an F.B.I. Agent, Treasury Agent etc., of violation of Internal Revenue Laws or other U.S. Laws under U.S.C. Title 28, rule 56 (of 1895); U.S. Rev. Statutes, 5508 Title 18 sec. 51; and the Anti Moiety Act of June 22, 1874, C 391.

3. "Unlawful Searches" may violate the IV Amendment to the Constitution by subterfuge or Fraud rather than by force.

4. "Color of Office", by an act unjusily done by countenance of an office grounded upon Corruption to which the office was a show and color. 28 U.S.C. sec. 1442(3). 5 U.S.C. sec. 139 (a, f & e) sec. 503-4.

## ARGUMENT.

### 1.

**The charges of fraud as such set forth is a denial of due process of the law and violation of the V and XIV Amendments to the Constitution.**

This action involves a National Bank together with Officers of the United States and Justice Department on government salary representing said bank, respondent in a "conflict of interest" probate case, wherein they came in as Administrators by Fraud, Conspiracy, Intimidation, False Misrepresentations. That the Assistant U.S. Attorney, Ray M. Foreman used his governmental position in 1950 and thereafter to carrying on this Fraud upon petitioners, also to carry on an inter-state conspiracy together with Elliot Seymour, a California attorney in eventually aiding the respondent to attain the position as Administrator.

The Respondents have been trustees, conservators and defendants in a Fraudulent Separate Maintenance Action in the City Court of Mattoon, Illinois in re: 49-C-59 and widow was a plaintiff. (R. 11-16) (Tr. 27-32).

That Fraud, Coercion and Duress were perpetrated upon petitioner Stella C. Davis, on April 3, 1951, in obtaining her signature to a fraudulent Petition of Letters of Administration which eventually got a fraudulent acknowledgment to same and which was instigated by Ray M. Foreman, Kenneth Clapper, the respondent bank, its employee and officials (Tr. 57-59.). An alleged Hearing was held in the County of Coles Court wherein petitioner Stella C. Davis was supposed to be there in person and

filed her petition which is untrue, as she and the other petitioners were never notified of said hearing, nor did they attend or file a "Waiver of Notice of Hearing" or had any knowledge of same. (R. p. 5-8) (Tr. 27-32, —, 57-58, 59, 60-61) *Bradley* v. *Wall*, 364 19 L. ed. 214 December 1868. *Cook* v. *Burnham*, 3 Kan. App. 27, 44 P 447, *Cummins* v. *U. S.*, Ark. 1916, 232, F. 844, 147 CCA 38, *Ettor* v. *Tacoma*, 228 U.S. 148 and *Saunders* v. *Shaw*, 244 U.S. 317, 37 S. Ct. 638, 61 L. Ed. 163 (1917) and *Rosenblum* v. *Rosenblum*, 1943, 42 N.Y. 5 2d 1026, 191 Misc. 78.

2.

**It is the right of every private citizen of the United States to inform an F.B.I. Agent, Treasury Agent etc., of violation of Internal Revenue Laws or other U.S. Laws under U.S.C. rule 56 (of 1895).**

The petitioners complained to The Federal Bureau of Investigation about the respondent, The National Bank of Mattoon, in the year of 1959 and thereafter, and as the result of such complaints they were threatened, intimidated, oppressed in the free exercise or enjoyment of this right and through great fear and lack of legal protection they had to represent themselves in courts because no attorney would take them, and the courts denied them legal counsel when they petitioned courts for same thereby they were under legal disability and duress through the acts of the administrator and its attorneys and others complained about to the F.B.I. U. S. Rev. Statutes, 5508 Title 18 sec. 51 and the Anti Moiety Act of June 22, 1874, C 391. *In Re Quarles*, Ga. 1895 15 S. Ct. 959, 158 U.S. 537, 39 L. ed. 1080. (R. 15-16) (Tr. 170-177)

3.

**Unlawful searches may violate the IV Amendment to the Constitution made by subterfuge rather than by force.**

Illegal searches for the assets were made by Elliot Seymour, in San Francisco, California while decedent was still alive and in his last illness while he was in the possession of a key ring with one of the keys to the safety deposit box in The National Bank of Mattoon, whereas after the death of the decedent, Ray M. Foreman, together with Kenneth Clapper and aided by the respondent bank made illegal searches of the decedent's assets, accounts etc. in The National Bank of Mattoon, and the attorneys in other banks and financial institutions prior the appointment, qualification of an administrator. *Carroll* v. *U. S.*, 267 U.S. 132, *Christopher* v. *Norvell*, 291 U.S. S. Ct. L. ed. 732.

4.

In the absence of counter-affidavits averments contained in the affidavits and supported by Exhibits by the petitioners in support of their Reply Brief must be taken as true.

*Leitch* v. *Hine*, 393 Ill. 211, 218.

The respondent did not file any affidavits to support their Motion to Strike Petition for Reopening Probate Case No. 15428 for Fraud Upon Petitioners and Affidavit thereon.

5.

There is a "Freehold" involved conferring Jurisdiction on Appeal to the Supreme Court of Illinois pursuant to Supreme Court Rule 75(1) and in cases concerning in which the interest of the State is involved.

The respondent OK'd several large checks on which the signature of the decedent was forged given in consideration of sale of a valuable piece of property and another piece of property was conveyed in a "Declaration of Trust" dated October 4, 1949 wherein the bank was trustee and it was involved in the fraudulent separate maintenance action 49-C-50 in the Mattoon City Court, Mattoon, Ill.

**6.**

Falsifying of Public Records.

There are irregular and re-issued U. S. Savings Bonds which is a Fraud not only upon the heirs-at-law but upon the Treasury Department of the United States. U. S. Code Title 18, sec. 472 and 473 and Section 1005. Chapter 38, Section 176, 401, Chapter 38, sec. 176, 401 (Brief p. 11). "Wilful" in the Act of Congress of 1882, 22 Stat. at L. 166 Title 13 imposing a penalty on National Bank officers or agents on wilful violations of the law implies a knowledge and purpose to do wrong.

*Potter* v. *U. S.* 438, 15 S. Ct. 144, 49 L. Ed. 214.

The county Judge signed the order to sell personal property of the deceased on January 8, 1952 and the U.S. Bond No. C10547470E is not in final settlement report of July 24, 1953. (Tr. 136-137)

**7.**

Rule 9-Civil R. of F. P. Under this rule requiring that averments of Fraud be stated with Particularity complaint alleging Fraud was not subject to Objection that it contained redundant, immaterial, impertinent or scandalous allegations.

*Israel* v. *Alexander*, D.C. N.Y. 1942, 50 F. Supp. 1007.

## CONCLUSION.

It is further respectfully submitted that the record of this case presents issues of such basic importance regarding the rights and protection of the informers who are also heirs-at-law and the involvement of a National Bank as administrator in a "Conflict of Interest" case together with former federal officers, employees and other named persons in their pleadings complained about to the Federal Bureau of Investigation.

That public interest requires a review of the decision of the Supreme Court of Illinois dismissal of petitioners' appeal. That the Orders of the Trial Court be reversed and the cause of action to be tried on the Facts, Evidence, Exhibits, Testimony and Merits by a Jury for Reopening Probate Case No. 15428 for Fraud Upon Petitioners and Affidavit in Support thereof.

Respectfully submitted,

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STELLA C. DAVIS, Pro Se,
4916 N. Magnolia Ave.,
Chicago, Illinois,

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Chicago, Illinois.

## APPENDIX.

State of Illinois
County of Coles—ss.

In the Matter of the Estate
of
William Daviditis, also known
as William Davis.
IN THE COUNTY COURT
In Probate
No. 15428
Filed May 16, 1952

### Opinion Of Court.

On February 16, 1952, Stella C. Davis, one of the heirs at law of William Daviditis, filed in the Probate Court of Coles County, a petition to withdraw her Petition for the appointment of an Administrator in the above estate. On February 26, 1952, a petition was filed in the said court by Josephine Daviditis, another heir at law of William Daviditis, deceased, and the widow of said deceased asking that Letters of Administration previously issued to the National Bank of Mattoon be revoked and that Letters of Administration de bonis non be issued to Stella C. Davis. On March 28, 1952, the National Bank of Mattoon filed its final account in the above estate asking for leave to make distribution and to be discharged. On April 9, 1952, the National Bank of Mattoon filed an objection to a claim in the sum of $8,000.00 filed by Josephine Daviditis, widow of William Daviditis, a petition for allowance of Administrator and attorney fees, a motion to strike the petition for revocation of Letters and issuance of new Letters and Petition of Stella C. Davis from the files, an affidavit of Kenneth H. Clapper and copies of Notices of Hearing. On April 25, 1952 Josephine Daviditis filed her objection to

the final account of the Administrator and the petition for allowances of fees; Stella C. Davis filed an objection to the final account and to the petition for allowances of fees and Betty Horrigan, another heir at law of William Daviditis, also filed her objections to the Administrator's final account and its petition for allowances for fees. These matters were all set for hearing and after a few continuances were heard by the Court with all parties present in person and with their attorneys on April 25, 1952, May 9, 1952, and concluded on May 10, 1952. By agreement among all parties the several petitions and objections were consolidated into one hearing together with the objections to the claim of Josephine Daviditis and the matter of a claim filed by a San Francisco attorney to the amount of $250.00.

The claim of Elliott W. Seymour, attorney at law in San Francisco, was allowed by the court after all the parties had agreed to said allowance.

The question of the claim of Josephine Daviditis in the sum of $8,000 was based upon the terms of a trust agreement entered into by the deceased, the terms of which directed such payment to the wife upon the death of the deceased. The Administrator introduced into evidence the terms of a decree of Separate Maintenance entered by the City Court of Mattoon, Illinois, in which the prior Trust Agreement was declared to be null and void and a new agreement was set up making no provisions for such payment to Josephine Daviditis upon the death of the deceased. The claimant attempted to present evidence tending to establish that the decree of the Mattoon City Court was void because the court lacked jurisdiction and because said decree was awarded on insufficient evidence. This court excluded all evidence tending toward such proof, it being the opinion of this court that the validity of the Mattoon City Court decree cannot be attached in this

court at this time on the grounds proposed by the claimant. It is the opinion of this court that the decree of the City Court of Mattoon is valid and binding upon all parties therein concerned and that this court has no jurisdiction or power here to hold such decree void or to change or alter it in any respect. Even if it is assumed that the decree was defective at the time it was entered, the evidence showed that the parties to the Mattoon City Court proceedings took advantage of its terms and conducted themselves under it for a considerable length of time and it is the opinion of this court that the claimant is now estopped from denying the validity of that decree. The Administrator's objections to the claim of Josephine Daviditis will be sustained.

We come now to the question of the Petition of Stella C. Davis to withdraw her petition for the appointment of an Administrator in the above estate. There Is some conflict in the testimony regarding the facts surrounding the execution of the original petition for the appointment of the National Bank as the Administrator executed by Stella C. Davis. Miss Davis and Mrs. Horrigan, another of the heirs, testified that the original petition was obtained from Miss Davis under duress and while she was in a great state of mental anguish and physically ill and that she did not understand the effect of such a petition and that her signature to said petition was not made or acknowledged before a Notary Public. Administrator introduced evidence then to show that Miss signed the original petition for Letters after a lengthy conversation in which the entire matter of their father's estate was discussed and after a full explanation had been made to her regarding the appointment of the Bank as Administrator and that the petition was signed and acknowledged before a Notary Public. The matter of the facts surrounding the execution of the original petition for Letters is in doubt in the mind

of this court but it does appear from undisputed evidence that for a period of several months after said petition was executed that the Administrator entered on the duties of his office and carried on the same with the cooperation and consent of all of the heirs including Miss Davis and that the relations between the Administrator and the heirs were cordial and that no objections to the Bank's authority as Administrator were made. In view of this fact and in view of the direct conflict in the evidence regarding the execution of the original petition, this court cannot say that the original appointment of the Administrator was irregular and that the Letters issued to the National Bank of Mattoon should be revoked. Even if it is assumed that the original petition for appointment was defective in that some formal requisite was omitted, it is the opinion of this court that the bank became a de facto Administrator and that as such, its actions were never objected to by any of the heirs during the time when such objections might have been a cause for the revocation of the Letters of Administration. It is therefore the order of the court that the Administrator's motion to strike petition for revocation of Letters and issuance of new Letters by Stella C. Davis be allowed and the petition by Stella C. Davis withdrawing her petition for appointment of Administrator be denied.

Now as to the petition for revocation of Letters and issuance of new Letters by Josephine Daviditis, the surviving spouse of William Daviditis. This petition is based on the premise that as the widow of said deceased, she is entitled to preference in the nomination of the Administrator and that she has never been given such preference. There was some evidence tending to show that at the time the original petition for Letters was filed, the widow, Josephine Daviditis, was not a resident of the State of Illinois and therefore would not be entitled to nominate

an Administrator. It is the opinion of this court however, that even if the widow had been a resident of Illinois and entitled to nominate an Administrator, she is precluded from doing so at the present time under the provisions of Paragraph 254 of Chapter 3, Illinois Revised Statutes which in effect gives her the right to nominate within three months after the issuance of the Letters. In this court's opinion the passage of time had made it improper for the widow to now nominate an Administrator even if it is assumed that she was a resident of Illinois at the time of the opening of this estate. For these reasons the petition of Josephine Daviditis for the revocation of the Letters of Administration and the issuance of new Letters is denied.

We come now to the question of the approving of the Administrator's account, its petition for allowance of Administrator and attorney fees and the objections filed thereto by Josephine Daviditis, Stella C. Davis and Betty Horrigan. There was testimony at great length by Stella Davis and Betty Horrigan concerning the Administrator's failure to locate and account for certain assets of the deceased which these heirs claim should have been included in the estate. A great part of the testimony of Stella C. Davis and Betty Horrigan Was Objectionable And Immaterial and failed to advise the court as to the exact manner in which the Administrator had been guilty of neglect or failure in the location of the assets of the estate. Much of the testimony of Miss Davis and Mrs. Horrigan contained conclusions of these persons and the court has searched the entire record for facts which might justify these conclusions. The Bank introduced considerable testimony tending to show to what extent they had searched for additional assets. In the opinion of this court the Administrator has done all that any reasonable person could expect them to do in their attempts to locate all

of the funds and assets belonging to the deceased. It is the further opinion of this court that the Administrator proceeded considerably further in its search for assets than might have been expected of it when the evidence concerning the situation in life of the deceased, and his activities during his lifetime is considered. This court can only reach the conclusion that the position of the heirs regarding the existence of additional assets is erroneous. The objection to the Administrator's final account and the objections to the Administrator's petition for the allowance of Administrator and attorney fees must therefore be overruled by the court. The Administrator introduced evidence at great length concerning the actual work done in the administration of this estate. It also presented the testimony of several well known and competent members of the bar of the community in which the estate was administered, concerned with the amount of fees to be charged in estates in which the work involved would be comparable to the work done in this estate. The testimony of these witnesses in effect would justify the allowance of an Administrator's fee of $1500 and an attorney's fee of $3000. Miss Davis, Mrs. Horrigan and Mrs. Daviditis presented no evidence tending to show that these fees were unreasonable or not in accordance with the customary charges made in this community, it being their position that the alleged failure of the Administrator to produce additional assets was grounds not only for the Administrator's discharge but also grounds for denying the administrator and the administrator's attorney any compensation for their work. Since it is the opinion of the court that the Administrator and the Administrator's attorney have creditably fulfilled their obligations to the estate and since there is adequate evidence to show that the fees asked by them are in accordance with good practice in this community, the court will allow an Adminis-

trator's fee of $1500 and an Administrator's attorney's fee in the amount of $3000.00.

It is the further opinion of the court that the final account of the Administrator should be and the same is hereby approved subject to the payment of the court costs, the attorney's fees, the Administrator's fees in the matter, and the filing of receipts therefore, and subject to the filing of receipts for distribution of the assets of the estate.

/s/ William J. Sunderman
County Judge